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SUMMARY OF THE EXECUTIVE BOARD MEETING

26 January 1982

EB 82-01

Members in Attendance Were:



25X1A

(Secretary) (C) A9c5.2

The meeting was opened with [ ] commenting that the four items on today's agenda were to provide information and clarification to Board Members on personnel management and the personnel management system. He stated that the four agenda items impact on us all as managers and may represent changes in the personnel management system. [ ] was then introduced as the presenter of the first agenda item, FLSA. (U)

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AGENDA ITEM #1 - Fair Labor Standards Act (FLSA)

[ ] began his presentation by defining how FLSA is applied. He provided Board Members with an explanation of the exempt and non-exempt FLSA status designations, as well as examples of compensation payments to both categories of employees. (U)

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Basically, individuals in a non-exempt status are eligible for FLSA payments and those in an exempt status are not. (U)

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25X1A Continuing, [ ] apprised Board Members that there  
25X1A were 183 potential problems in FLSA status designations in OC  
today. He explained that the problems exist in positions where  
PMCD has assigned the wrong designation, and where individuals  
are erroneously classified as either exempt or non-exempt.  
[ ] went on to say that he is reviewing OC's staffing  
complement and is attempting to have PMCD correct the errors it  
has made in position status designations. (U)

Pay regulations were discussed and a specific example was  
provided of a GS-12 employee, who under HR [ ] is exempt from 25X1A  
FLSA. An employee in this category must donate the first 8 hours  
of O/T worked and then any additional O/T is paid at the GS-10  
Step 1 pay rate. However, if this same employee was in a non-  
exempt status, he would receive O/T pay for all hours worked at  
his normal pay rate. (U)

25X1A Viewgraphs were shown to provide Board Members with examples  
of various types of employees and the criteria used to determine  
exempt or non-exempt status. Board Members asked many questions  
during the course of the viewgraph presentation, and  
[ ] addressed them all. (U) 25X1A

25X1A Upon completion of the viewgraph presentation, [ ]  
25X1A provided each Board Member with a list identifying the 183  
positions and incumbents where incorrect FLSA designations exist  
in the position and/or employee status. A general discussion on  
the list ensued, and [ ] asked if FLSA is determined by  
the individual. [ ] replied that duties can be exempt  
but employees could be non-exempt. He also added that a  
determination of status should be made at the Office level. (U)

25X1A [ ] commented that he instituted a program to change  
all DND personnel to the non-exempt status based on the result of  
PMCD actions at other locations. He added that his feeling is  
that PMCD made a mistake on the designations in CSB and he is  
concerned about the personnel implications. (C) A9c4.1

25X1A [ ] expressed concern that some employees are  
being overpaid and others underpaid by being erroneously  
designated as exempt or non-exempt. (U)

25X1A Board Members asked [ ] questions regarding the  
application of FLSA to overseas positions. He responded that all  
employees overseas have been specifically excluded from FLSA by  
statute. There was then some discussion among Board Members on  
the possibility of separate pay scales for overseas employees.  
(U)

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An additional area of concern was pointed out by [ ] That is, when an individual who is properly designated as exempt or non-exempt in his current position is transferred to a position in the opposite category. [ ] responded that we have to come up with a way to handle all of the various situations that will occur. (U)

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[ ] went on to say that although we can get PMCD to remedy the errors it made in positions, we should also take action to get the people changed to the correct FLSA status. He added that he would be happy to talk to Division Chiefs regarding necessary changes in FLSA status designations, as well as write memos to personnel whose status would change. (U)

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DECISION: [ ] tasked [ ] to brief each Division on FLSA status changes at staff meetings and to have PMCD review the positions in question. He went on to say that before any person's FLSA status is changed, either he or [ ] should sign off on it. (U)

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[ ] then suggested a course of action for the Office when position and person FLSA status designations are corrected. He recommended refunds not be sought from overpaid employees, but that attempts be made to provide retroactive payments to employees who were entitled to higher payments. Funds availability as well as the legality of the proposal were discussed by Board Members. [ ] decided that [ ] should take whole issue of refunds and retroactive payments to OF for resolution. He then introduced the second agenda item. (U)

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#### AGENDA ITEM #2 - Impact and Incumbency Allocations

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[ ] began his presentation by providing background information and definitions of Impact and Incumbency Allocations. (U)

An Impact Allocation covers a position which is occupied by an incumbent who has unique qualifications and expert knowledge in a substantive field of work. He brings an added dimension to the position of a sufficient degree to warrant classifying it at a higher level during the tenure of that incumbent. Positions with an Impact Allocation designation will remain at the higher grade level until vacated by the original incumbent. (U)

An Incumbency Allocation is assigned to a position which is reviewed by PMCD and evaluated as being overgraded, but the grade level of the present incumbent is higher than that of the

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evaluated grade. In this case, the position will revert to its properly classified grade level when vacated, or after a period of two years from the time it is established as an Incumbency Allocation, whichever occurs first. (U)

25X1A There are Incumbency Allocations in 13 positions; 3 in DND/CSB and 10 in [ ] (C) A9c4.1

25X1A A general discussion among Board Members on Incumbency Allocations followed. [ ] commented that the impact on an individual in one of these positions is that he can't get promoted and, after 2 years in this category cannot receive more than 150 percent of the maximum rate of pay of the lower grade. He stated that we have some people in dead-end positions and if an individual is caught in this situation, the Office has 2 years to get him out of it. It was also pointed out that we may have some CAT IV employees that can be left in these positions. (U)

25X1A [ ] suggested PMCD review the affected positions at [ ] before any other action is taken on them. He added that they have not been looked at for quite some time. The suggestion was accepted. (C) A9c4.1

25X1A In response to a request by [ ] the names of the  
25X1A individuals in DND were provided [ ]  
25X1A [ ]. (C) A9c4.1

25X1A DECISION: [ ] should review the 3 Incumbency Allocations identified in DND to determine people don't suffer.  
25X1A [ ] added that [ ] should take a long term look at  
25X1A [ ] should hold off any action on the positions at [ ] until PMCD reviews them. (C) A9c4.1

AGENDA ITEM #3 - Standby Duty Pay

25X1A [ ] provided Board Members with a brief overview of Standby Duty Pay and the Department's interpretation of the Foreign Service Act. (U)



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In response to a question, [ ] pointed out that individuals receiving this pay allowance can elect to change back to a normal pay status. He added that the Department was applying the Standby Duty Pay allowance for periods of 6 months at a time. (U)

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25X1A DECISION: [ ] stated that the Standby Duty Pay allowance was still being sorted out, and he asked Board Members to provide [ ] with any thoughts they may have on how it impacts on the Office. He commented that although the original intent of Standby Duty Pay was for one- and two-person stations, it is now spreading out to larger posts. (U)

AGENDA ITEM #4 - Danger Pay

25X1A [ ] explained the Danger Pay allowance and how it is administered. (U)

The Danger Pay allowance provides added compensation of up to 25 percent for employees at posts designated by the Secretary of State where civil insurrection, civil war, terrorism, or war-time conditions exist. It is granted separately and in addition to any post differentials being paid at a post. (U)

25X1A [ ] was used as an example of a post where an employee receives 50 percent in allowances; 25 percent post differential and an additional 25 percent Danger Pay. (C) A9c5.2

25X1A Some discussion among Board Members about pay caps ensued, and [ ] stated that the highest salary compensation allowable for an individual is based on the salary of the Ambassador, less \$100. (U)

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25X1A [ ] were identified as the only two posts where the Danger Pay allowance is being paid, and [ ] asked why [ ] was not included. [ ] replied that he would follow up on this. (C) A9c4.1

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25X1A [ ] addressed the Board Members and stated that the four agenda items presented a mixture of complicated pay scales. He recapped conclusions and the actions to be taken on the agenda items as follows: (U)

FLSA

25X1A -- [ ] is to brief each Division on FLSA at staff meetings so that individuals can be properly classified as exempt or non-exempt.

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-- Any changes in a person's FLSA status must be approved by either the D/CO or DD/CO.

-- All positions where the FLSA status is in question should be reviewed by PMCD.

-- The issue of individuals, improperly classified, returning overpayments or receiving retroactive payments should be taken to OF for resolution.

Impact and Incumbency Allocations

-- DND is to look at its three positions where Incumbency Allocations exist and to ensure people in them don't suffer.

-- The Incumbency Allocations in the 10 positions at [ ] should be reviewed by PMCD before any other action is taken. (C) A9c4.1

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Danger Pay

-- No further action required. The SSA has determined that [ ] has been granted this allowance. (C) A9c4.1

[ ] made one final comment to Board Members. He stated that in looking at the list provided by [ ] he had noticed a number of personnel were PRA'ed, and requested Board Members review them. The meeting was adjourned. (U)

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[ ]  
Secretary (C) A9c5.2

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APPROVED:

[ ]

Director of Communications U

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Approved For Release 2005/07/12 : CIA-RDP83-00531R000100150018-5

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NON-EXEMPT EMPLOYEES

1. EMPLOYEES GS-04 AND BELOW REGARDLESS OF THE DUTIES PERFORMED.
2. SUPERVISORY EMPLOYEES GS-05 THROUGH GS-09 WHO PERFORM MORE THAN 20% NON-SUPERVISORY FUNCTIONS WHICH CANNOT BE RELATED TO THEIR SUPERVISORY DUTIES.
3. NON-SUPERVISORY ADMINISTRATIVE EMPLOYEES GS-06 AND BELOW.
4. NON-SUPERVISORY PROFESSIONAL EMPLOYEES GS-06 AND BELOW.
5. ADMINISTRATIVE EMPLOYEES GS-07 THROUGH GS-09 WHO PERFORM MORE THAN 20% NON-EXEMPT WORK.
6. PROFESSIONAL EMPLOYEES GS-07 THROUGH GS-09 WHO PERFORM MORE THAN 20% NON-EXEMPT WORK.



NON-EXEMPT EMPLOYEES (Con't)

7. NON-SUPERVISORY SCIENTIFIC AND ENGINEERING TECHNICIANS GS-12 AND BELOW WHO DO NOT MEET THE PROFESSIONAL OR ADMINISTRATIVE CRITERIA.
8. WG, WL, WP, GP AND GA EMPLOYEES REGARDLESS OF DUTIES PERFORMED.
9. FIREMEN WITH OCCUPATIONAL SERIES GS-0081.01.
10. GUARDS WITH OCCUPATIONAL SERIES GS-0085.01.
11. CO-OPS GS-06 AND BELOW.
12. SUMMER ONLY EMPLOYEES.

EXEMPT EMPLOYEES

1. SUPERGRADE EMPLOYEES -- INCLUDING SPS.
2. WS FOREMEN WHO ARE ALLOCATED ACCORDING TO GENERAL FOREMAN CRITERIA I.E., SUPERVISOR OF 3 OR MORE WS FOREMEN.
3. GS-13 AND ABOVE EMPLOYEES WITH THE FOLLOWING EXCEPTIONS:
  - PACKAGING OFFICER - OCC SERIES 2032.03
  - DOCUMENT TECH - OCC SERIES 1397.01
  - AIRPLANE PILOT - OCC SERIES 2181.01
4. AGENCY CAREER TRAINEES.
5. MILITARY DETAILEES.
6. SUMMER INTERNS.

EXEMPT EMPLOYEES (Con't)

7. EXECUTIVE (SUPERVISORY) EMPLOYEES GS-10 AND ABOVE WHO MEET ALL THE FOLLOWING CRITERIA.
  - (1) SUPERVISES AT LEAST 3 SUBORDINATES;
  - (2) PRIMARY DUTY CONSISTS OF MANAGEMENT OR SUPERVISION;
  - (3) SUPERVISES A RECOGNIZED ORGANIZATIONAL UNIT;
  - (4) EXERCISES DISCRETION AND INDEPENDENT JUDGMENT AND IS UNDER ONLY GENERAL SUPERVISION;
  - (5) PERFORMS SIGNIFICANT PERSONNEL MANAGEMENT DUTIES.
    - (A) INTERVIEWS AND RECOMMENDS SELECTIONS
    - (B) EVALUATES PERFORMANCE
    - (C) RECOMMENDS PROMOTIONS, REASSIGNMENTS, PSI, ETC.
    - (D) DEALS WITH EMPLOYEE COMPLAINTS OR GRIEVANCES.
8. EXECUTIVE (SUPERVISORY) EMPLOYEES GS-05 - GS-09 AND WS EMPLOYEES AT ANY GRADE LEVEL WHO MEET THE CRITERIA IN ITEM 7 AND IN ADDITION SPEND 80% OR MORE OF THEIR WORKTIME IN SUPERVISORY AND CLOSELY RELATED WORK.

EXEMPT EMPLOYEES (Con't)

9. ADMINISTRATIVE EMPLOYEES GS-10 AND ABOVE WHO MEET ALL THE FOLLOWING CRITERIA:
  - (1) PRIMARY DUTY SIGNIFICANTLY AFFECTS THE FORMULATION OR EXECUTION OF MANAGEMENT POLICIES OR PROGRAMS OR INVOLVES GENERAL MANAGEMENT FUNCTIONS OR SIGNIFICANT SUPPORT TYPE SERVICES OR INVOLVES SUBSTANTIAL PARTICIPATION IN THE EXECUTIVE/ADMINISTRATIVE FUNCTIONS OF A MANAGEMENT OFFICIAL.
  - (2) PERFORMS PREDOMINATELY NON-MANUAL WORK WHICH IS INTELLECTUAL AND VARIED OR OF A SPECIALIZED/TECHNICAL NATURE THAT REQUIRES CONSIDERABLE SPECIALIZED TRAINING, EXPERIENCE AND KNOWLEDGE.
  - (3) MUST FREQUENTLY EXERCISE DISCRETION AND INDEPENDENT JUDGMENT WHILE UNDER ONLY GENERAL SUPERVISION.
10. ADMINISTRATIVE EMPLOYEES GS-07 THROUGH GS-09 WHO MEET THE CRITERIA IN ITEM 9 AND IN ADDITION SPEND 80% OR MORE OF THEIR WORKTIME ON ESSENTIAL ADMINISTRATIVE DUTIES.

EXEMPT EMPLOYEES (Con't)

- II. PROFESSIONAL EMPLOYEES GS-10 AND ABOVE WHO MEET THE CRITERIA OF 1 or 2 BELOW AND A, B AND C.
  - (1) POSSESSES KNOWLEDGE IN A FIELD OF SCIENCE OR LEARNING USUALLY ACQUIRED THROUGH FORMAL EDUCATION THAT MEETS THE REQUIREMENTS FOR AT LEAST A BACHELOR'S DEGREE (EXCLUDING GENERAL EDUCATION) OR THROUGH EXPERIENCE AND/OR SPECIALIZED EDUCATION/TRAINING, PERFORMS WORK ON A COMPARABLE LEVEL TO A PROFESSIONAL EMPLOYEE; OR
  - (2) PERFORMS WORK IN A RECOGNIZED ARTISTIC FIELD THAT IS ORIGINAL OR CREATIVE WHICH REQUIRES THE EMPLOYEE TO USE IMAGINATION, INVENTION OR TALENT.
    - (A) PERFORMS PREDOMINATELY INTELLECTUAL AND VARIED WORK REQUIRING CREATIVE, ANALYTICAL, EVALUATIVE OR INTERPRETIVE EXPERTISE.
    - (B) MUST FREQUENTLY EXERCISE DISCRETION AND INDEPENDENT JUDGMENT WHILE UNDER ONLY GENERAL SUPERVISION.

EXEMPT EMPLOYEES (Con't)

(C). MEETS THE PRIMARY DUTY CRITERION TO THE EXTENT THAT OVER 50% OF THE WORK IS PROFESSIONAL IN NATURE OR IF LESS THAN 50% IT REPRESENTS THE MOST IMPORTANT DUTY, CONTROLS THE CLASSIFICATION OF THE POSITION AND IS CLEARLY EXEMPT WORK IN TERMS OF THE BASIC NATURE OF THE WORK.

12. PROFESSIONAL EMPLOYEES GS-07 THROUGH GS-09 WHO MEET THE CRITERIA IN ITEM 13 AND IN ADDITION SPEND 80% OR MORE OF THEIR WORK-TIME ENGAGED IN REPRESENTATIVE PROFESSIONAL DUTIES.